

Title 5: ADMINISTRATIVE PROCEDURES AND SERVICES

Chapter 383: ECONOMIC AND COMMUNITY DEVELOPMENT

Article 1-B: LORING DEVELOPMENT AUTHORITY OF MAINE

§13080. LORING DEVELOPMENT AUTHORITY OF MAINE ESTABLISHED

The Loring Development Authority of Maine is established as a body corporate and politic and a public instrumentality of the State to carry out the provisions of this article and shall take title, acquire and manage the properties within the geographical boundaries of Loring Air Force Base in the name of the State. [1993, c. 729, §2 (RPR) .]

SECTION HISTORY

1993, c. 474, §1 (NEW) . 1993, c. 729, §1 (RPR) .

§13080-A. DEFINITIONS

As used in this article, unless the context otherwise indicates, the following terms have the following meanings.
[1993, c. 474, §1 (NEW) .]

1. Authority. "Authority" means the Loring Development Authority of Maine.

[1993, c. 474, §1 (NEW) .]

2. Base area. "Base area" means the area within the geographic boundaries of Loring Air Force Base.

[1993, c. 474, §1 (NEW) .]

3. Bond. "Bond" means a bond or note or other evidence of indebtedness authorized under this article, whether issued under or pursuant to a bond resolution, trust indenture, loan or other security agreement.

[1993, c. 474, §1 (NEW) .]

4. Department. "Department" means the Department of Economic and Community Development or its successor.

[1993, c. 474, §1 (NEW) .]

5. Governing body. "Governing body" means, for a municipality, the municipal legislative body as defined by Title 30-A, section 2001 or, for a county, the board of county commissioners.

[1993, c. 474, §1 (NEW) .]

6. Loring Air Force Base. "Loring Air Force Base" or "base" means those properties and facilities within the geographic boundaries of the United States Department of Defense air force base at Limestone existing on July 13, 1993. "Base" also includes the Madawaska dam site, the Loring Water System, the Loring #3 communications site in Limestone, the pipeline from Searsport to Limestone and other geographically separate property that the authority determines should be considered part of the base, if the municipality in which the property is located has chosen not to accept the property and utilize it for other purposes.

[2003, c. 598, §1 (AMD) .]

7. Operating revenues. "Operating revenues" means funds available to the authority from fees, fares, rental or sale of property and miscellaneous revenue and interest generated by the airport and collected in accordance with the provisions of the Surplus Property Act, 49 United States Code App. Section 2210 and Federal Aviation Administration Order 5190.6A.

[1993, c. 729, §2 (AMD) .]

8. Primary impact community. "Primary impact community" means the municipalities of Caribou, Caswell, Fort Fairfield, Limestone, Presque Isle and Van Buren and Aroostook County.

[1993, c. 474, §1 (NEW) .]

9. Readjustment or reuse. "Readjustment" or "reuse" means an alternative use of the base facility from its use as a military installation.

[1993, c. 474, §1 (NEW) .]

10. Real or personal property. "Real or personal property" means those properties and assets transferred by the United States Government or the United States Air Force pursuant to the closure of Loring Air Force Base.

[1993, c. 474, §1 (NEW) .]

11. Reconstruct or reconstruction. "Reconstruct" or "reconstruction" means any activities undertaken to maintain the properties of Loring Air Force Base, or any part of those properties, as a modern, safe and efficient facility and includes, but is not limited to, any rebuilding, redesign, improvement or enlargement of the real properties or environmental mitigation activities on base properties.

[1993, c. 474, §1 (NEW) .]

SECTION HISTORY

1993, c. 474, §1 (NEW). 1993, c. 729, §2 (AMD). 1995, c. 495, §1 (AMD). RR 1997, c. 2, §19 (COR). 2003, c. 598, §1 (AMD).

§13080-B. LORING DEVELOPMENT AUTHORITY OF MAINE; POWERS; MEMBERSHIP; OBLIGATIONS

1. Powers. The authority is a public municipal corporation and may:

A. Sue and be sued; [1993, c. 474, §1 (NEW) .]

B. Adopt bylaws or regulations consistent with this article for the governance of its affairs; [1993, c. 474, §1 (NEW) .]

C. Exercise all of the general powers of corporations under Title 13-C, section 302; [2001, c. 2, Pt. B, §58 (AFF); 2001, c. 2, Pt. B, §3 (COR) .]

D. Exercise the power of eminent domain; [1993, c. 474, §1 (NEW) .]

E. Provide for the public safety by imposing appropriate regulations, regulating appropriate use of the base facilities and enforcing laws and regulations as they apply to the use of the base facilities; [1993, c. 474, §1 (NEW) .]

F. Charge and collect fees, charges and rents for the use of the properties and other services and use the proceeds of those fees, charges and rents for the purposes provided in this article, both subject to and in accordance with any agreement with bondholders that may be made as provided in this article. Fees, charges and rents collected from properties contained in the public benefit transfer or otherwise generated by the airport must be used to support the development, maintenance and operation of aeronautical facilities and in accordance with Federal Aviation Administration Order 5190.6A; [1993, c. 729, §3 (AMD) .]

G. Contract with the Federal Government or its instrumentalities or agencies, this State or its agencies, instrumentalities or municipalities, public bodies, private corporations, partnerships, associations, individuals and other persons to carry out the purposes of this article; [2003, c. 598, §2 (AMD) .]

H. Accept the cooperation of the Federal Government or its agencies in the construction, maintenance, reconstruction, operation and financing of the readjustment of the base and take necessary actions to utilize that aid and cooperation; [1993, c. 474, §1 (NEW) .]

I. Borrow money and apply for and accept advances, loans, grants, contributions and other forms of financial assistance from the Federal Government, the State, a municipality or other public body or from other sources, public or private, for

the purposes of this article, give any security that is required and enter into and carry out contracts in connection with that financial assistance; [1993, c. 474, §1 (NEW) .]

J. Borrow money, make, issue and sell at public or private sale negotiable notes, bonds and other evidences of indebtedness or obligation of the authority for the purposes under this article and secure the payment of that obligation or any part of that obligation by pledge of all or any part of the operating revenues or other revenues or property of the authority; [2003, c. 598, §2 (AMD) .]

K. Enter into loan or security agreements with borrowers or one or more lending institutions, including, but not limited to, banks, insurance companies and pension funds, or trustees for those institutions for the purposes for which bonds may be issued and exercise with respect to those loan or security agreements all of the powers delineated in this article for the issuance of bonds; [2003, c. 598, §2 (AMD) .]

L. Provide from operating revenues for the maintenance, construction or reconstruction of facilities to ensure the public safety for which the authority has not otherwise provided and in keeping with limitations set forth in paragraph F; [1993, c. 729, §3 (AMD) .]

M. Use operating revenues to provide payment of obligations, if any, due to the United States to implement the readjustment or reuse of the facility. Use of operating revenues for this purpose must be in accordance with the provisions of the Surplus Property Act, 50 United States Code App. Section 1622 et seq. and Federal Aviation Administration Order 5190.6A; [1993, c. 729, §3 (AMD) .]

N. Adopt rules pursuant to the Maine Administrative Procedure Act; and [1993, c. 474, §1 (NEW) .]

O. Take all other lawful action necessary and incidental to these powers. [1993, c. 474, §1 (NEW) .]

[2003, c. 598, §2 (AMD) .]

2. Membership; appointment. The authority is governed by a board of trustees composed of 13 voting members appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over economic development matters and to confirmation by the Senate.

A. Trustees are appointed for 4-year terms except that, for initial appointments, 3 trustees are appointed to one-year terms, 3 trustees to 2-year terms, 2 trustees to 3-year terms, 4 trustees to 4-year terms and the commissioner designated pursuant to paragraph D serves at the pleasure of the Governor. [1995, c. 166, §1 (AMD) .]

B. A trustee continues to hold office until a successor is appointed and qualified, but the term of the successor is not altered from the original expiration date of the holdover trustee's term. [1993, c. 474, §1 (NEW) .]

C. The Governor shall make 12 appointments, of which no less than 7 must be from candidates who are residents of Aroostook County and are nominated by the primary impact communities. The Governor shall appoint members who reflect the diversity of interests represented by these communities. At least 4 of the remaining appointments must be from candidates who are not residents of Aroostook County. [1995, c. 166, §1 (AMD) .]

D. The Governor shall designate a commissioner of a department of State Government to be a voting, ex officio member of the board of trustees. [1993, c. 474, §1 (NEW) .]

[1995, c. 166, §1 (AMD) .]

3. Quorum. Seven members constitute a quorum. Seven affirmative votes are required for the board to take action.

[1995, c. 166, §1 (AMD) .]

4. Liability. The liability of the authority is governed by the Maine Tort Claims Act, Title 14, chapter 741. A member of the authority, a member of a board of the authority and an employee of the authority may not be subject to any personal liability for having acted in the service of their duty as board members of the authority within the course and scope of membership or employment to carry out a power or duty under this chapter. The authority shall indemnify a member of the authority, a member of a board of the authority and an employee of the authority against expenses actually and necessarily incurred in connection with the defense of an action or proceeding in which the member or employee is made a party by reason of past or present association with the authority.

[1997, c. 71, §1 (AMD) .]

5. Expenses. A trustee is not entitled to receive compensation for services to the authority but is entitled to receive reimbursement for necessary expenditures, including travel expenses, incurred in carrying out those services.

[1993, c. 474, §1 (NEW) .]

6. Officers; employees. The trustees shall elect a chair and vice-chair from among their members. The authority may employ an executive director, technical experts and other agents and employees, permanent and temporary, that it requires and may determine their qualifications, duties and compensation. Permanent employees of the authority are eligible to elect to participate in the Maine Public Employees Retirement System, any state-deferred compensation plan or any other plan or program adopted by the trustees to the extent the trustees may determine. For required legal services, the authority may employ or retain its own counsel and legal staff.

[1995, c. 495, §2 (AMD); 2007, c. 58, §3 (REV) .]

7. Term limits. A person may not serve more than 2 consecutive 4-year terms as a trustee.

[1995, c. 644, §1 (NEW); 1995, c. 644, §3 (AFF) .]

SECTION HISTORY

1993, c. 474, §1 (NEW). 1993, c. 729, §§3,4 (AMD). 1995, c. 166, §1 (AMD). 1995, c. 495, §2 (AMD). 1995, c. 644, §1 (AMD). 1995, c. 644, §3 (AFF). 1997, c. 71, §1 (AMD). RR 2001, c. 2, §B58 (AFF). RR 2001, c. 2, §B3 (COR). 2003, c. 598, §2 (AMD). 2007, c. 58, §3 (REV).

§13080-C. USE OF OPERATING REVENUES

1. Use of revenue. Operating revenue generated from property transferred in the Federal Aviation Administration public benefit transfer or otherwise generated by the airport must be used to support the development, maintenance and operation of aeronautical facilities, operating costs of the airport and costs substantially related to the actual air transportation of passengers or property. Revenues generated from other properties granted to the authority in subsequent or different transfers must be used as the authority determines appropriate within the powers established by this article.

[1993, c. 729, §5 (RPR) .]

2. Permitted liability limited. All expenses incurred in carrying out this article must be paid solely from funds provided under the authority of this article, and liability or obligation may not be incurred under this article beyond the extent to which money has been provided under the authority of this article.

[1993, c. 474, §1 (NEW) .]

3. Equal opportunity employers. Contractors and subcontractors on authority construction and reconstruction projects must be equal opportunity employers and, for contracts in excess of \$250,000, shall pursue in good faith affirmative action programs as defined in section 782. The authority may by rule provide for the enforcement of this requirement.

[1993, c. 474, §1 (NEW) .]

SECTION HISTORY

1993, c. 474, §1 (NEW). 1993, c. 729, §5 (AMD).

§13080-D. PROPERTY OF AUTHORITY

The authority shall hold and acquire property as follows. [1993, c. 474, §1 (NEW) .]

1. Lease or sale. Properties may be leased or sold to accomplish the readjustment or reuse of the facilities as determined appropriate by the authority. Resources acquired as a result of the lease or sale of these properties become operating revenues or assets of the authority.

[1993, c. 474, §1 (NEW) .]

2. Entry upon lands. The authority and its authorized agents and employees may enter upon lands, waters and premises in the State for the purpose of making surveys, soundings, drillings and examinations it determines necessary or convenient for the purposes of this article. The entry is not a trespass, but the authority is liable for damages its entry creates.

[1993, c. 474, §1 (NEW) .]

3. Authority for transfers of interest in land to the authority. Notwithstanding any contrary provisions of law, upon the authority's request, on reasonable and fair terms and conditions and without the necessity for advertisement, order of court or action or formality other than the regular and formal action of the authorities concerned, counties, municipalities, public agencies or instrumentalities of the State, public service corporations and special districts may lease, lend, grant or convey to the authority real or personal property or rights in that property that may be necessary or convenient for the effectuation of the authorized purposes of the authority, including real and personal property or rights in that property already devoted to public use. As used in this subsection, the term "public service corporation" includes a public utility as defined in Title 35-A, section 102, subsection 13 and a corporation referred to in Title 13-C.

[2001, c. 2, Pt. B, §58 (AFF); 2001, c. 2, Pt. B, §4 (COR) .]

4. Enforcement on ways under jurisdiction of the authority. A law enforcement officer may enforce the traffic laws under Title 29-A on a way under the jurisdiction of the authority.

[2013, c. 48, §1 (NEW) .]

SECTION HISTORY

1993, c. 474, §1 (NEW). RR 2001, c. 2, §B58 (AFF). RR 2001, c. 2, §B4 (COR).
2013, c. 48, §1 (AMD).

§13080-E. SPECIAL UTILITY DISTRICTS

The authority may form special utility districts and provide municipal utility services within its jurisdiction. The board of trustees of the authority has the authority of a municipal legislative body for these purposes. [1993, c. 474, §1 (NEW) .]

1. Sewer services. The authority may provide sewer services as a sanitary district under Title 38, chapter 11, subchapters III and IV. The authority may establish a board of trustees for the district and appoint the members of the board or may act as the trustees of the district.

[1993, c. 474, §1 (NEW) .]

2. Solid waste disposal. The authority may provide solid waste disposal services as a refuse disposal district under Title 38, chapter 17. The authority may establish a board of trustees for the district and appoint the members of the board or may act as the trustees of the district.

[1993, c. 474, §1 (NEW) .]

3. Water. The authority may provide water as a water district under Title 35-A, Part 6. The authority may establish a board of trustees for the district and appoint the members of the board or may act as the trustees of the district.

[1993, c. 474, §1 (NEW) .]

4. Revenue-producing services. The authority has all the powers of a municipality to provide services under Title 30-A, chapter 213.

[1993, c. 474, §1 (NEW) .]

SECTION HISTORY

1993, c. 474, §1 (NEW) .

§13080-F. OTHER MUNICIPAL POWERS

1. Traffic ordinances. The authority has the power to enact traffic ordinances and regulate the operation of motor vehicles under Title 30-A, section 3009, to the extent that power is not inconsistent with other validly enacted municipal ordinances.

[1993, c. 474, §1 (NEW) .]

2. Operating expenses. The authority has all the powers of a municipality to raise and appropriate money under Title 30-A, sections 5722 and 5723.

[1993, c. 474, §1 (NEW) .]

3. Zoning. The authority may adopt and enforce zoning and other land use ordinances for all Loring Air Force Base property. The authority shall comply with the mandatory shoreland zoning provisions of Title 38, sections 435 to 449. The ordinances preempt any municipal or local ordinances affecting the property. The authority shall secure rights-of-way, easements and zoning rules needed to adequately clear and protect the aerial approaches to the airport by removing, lowering, relocating, marking, lighting or otherwise mitigating existing airport hazards. The authority shall endeavor, to the extent reasonable, to ensure compatible use of land adjacent to or in the immediate vicinity area of the airport as provided in the Maine Aeronautics Act, Title 6, section 122.

[1995, c. 495, §3 (AMD) .]

3-A. Loring Development Authority Planning Board. The Loring Development Authority Planning Board is established as follows.

A. The Loring Development Authority Planning Board consists of 6 members. One member must be a nonvoting member appointed by the authority's board of trustees. The municipal officers of Caswell and Caribou shall each appoint one member and the municipal officers of Limestone shall appoint 3 members. [1995, c. 495, §4 (NEW) .]

B. The Loring Development Authority Planning Board shall:

(1) Develop and recommend land use and zoning ordinances for Loring Air Force Base for approval by the authority;

(2) Hold public hearings as necessary and appropriate in the member communities during the development of and changes to the ordinances; and

(3) Upon adoption by the authority of any land use and zoning ordinances, review proposed projects at Loring Air Force Base under the ordinances and submit its decisions with respect to the projects to the authority for its approval. [1995, c. 495, §4 (NEW) .]

[1995, c. 495, §4 (NEW) .]

4. Highway maintenance. The authority may maintain, repair, plow and control public ways as a municipality under Title 23, Part 3. The authority shall consult and coordinate with the appropriate primary impact community in appointing a road commissioner.

[1993, c. 474, §1 (NEW) .]

SECTION HISTORY

1993, c. 474, §1 (NEW). 1993, c. 729, §6 (AMD). 1995, c. 495, §§3,4 (AMD).

§13080-G. BONDS

1. Hearing required. The authority may issue bonds to finance its activities only after giving notice of the proposed issuance at least twice in a newspaper of general circulation in the county and holding a duly advertised public hearing on the issuance.

[2003, c. 598, §3 (AMD) .]

1-A. Credit of State pledged. The authority may ask the State to issue bonds to finance the undertaking of any authorized activity under this article, those bonds to have the full faith and credit of the State. Before any such bonds are issued they must be authorized by the Legislature and ratified by the electors in accordance with the Constitution of Maine, Article IX, Section 14. Subsections 1 and 2 and subsection 7, the 2nd 2 sentences, do not apply to bonds issued under this subsection.

[1995, c. 495, §5 (NEW) .]

2. Authority. In addition to the authority provided in subsection 1-A, the authority may issue bonds from time to time in its discretion to finance the undertaking of an authorized activity under this article, including but not limited to the payment of costs of acquisition, construction, reconstruction, renovation, equipping, start-up, testing, capitalized interest, reserves, reuse or improvement within the base undertaken by a person and the payment of principal and interest upon advances for surveys and plans, and may issue refunding bonds for the payment or retirement of bonds previously issued.

A. The principal, interest and all other amounts that may at any time become due and payable under the bonds must be made payable solely from the income, proceeds, revenues and funds of the authority derived from or held for activities under this article. Payment of the principal and interest of bonds may be further secured by a pledge of a loan, grant or contribution from the Federal Government or other source in aid of activities of the authority under this article or solely from income, proceeds, revenues, loan repayments, funds and other property, real or personal, pledged, assigned or mortgaged by or to the authority in connection with the provision of financial assistance by the authority to any person or any combination of the foregoing and by a mortgage of an urban activity or a project or part of a project, title to which is in the authority. [2003, c. 598, §4 (AMD) .]

B. Bonds issued under this section and paragraph do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and are not subject to other laws or charters relating to the authorization, issuance or sale of bonds. Notwithstanding this paragraph, the authority may issue bonds in an original principal amount not to exceed \$100,000,000 to which the authority may designate section 13080-N to apply. Bonds issued under this article are declared to be issued for an essential public and governmental purpose and, together with interest on and income from the bonds, are exempt from all taxes. [1995, c. 495, §7 (AMD) .]

C. Bonds may not be issued by the authority until the authority has received a certificate of approval from the Finance Authority of Maine authorizing issuance of bonds. Before issuing a certificate of approval under this section, the Finance Authority of Maine shall determine that there is a reasonable likelihood that the income, proceeds, revenues and funds of the authority derived from or held for activities under this article or otherwise pledged to payment of the bonds will be sufficient to pay principal, interest and all other amounts that may at any time become due and payable under the bonds. In making this determination, the Finance Authority of Maine must consider the authority's analysis of the proposed bond issue and the revenues to make payments on the bond and may require such information, projections, studies and independent analyses as it considers necessary or desirable and may charge the authority reasonable fees and expenses. The issuance by the Finance Authority of Maine of a certificate of approval under this section does not constitute an endorsement of the bonds or the projects or purposes for which those bonds are issued and neither the authority nor any other person or entity, including, without limitation, any holders of bonds of the authority, have any cause of action against the Finance Authority of Maine with respect to any such certificate of approval. The Finance Authority of Maine may require that it be indemnified, defended and held harmless by the authority for any liability or cause of action arising out of or with respect to the bonds. [2003, c. 598, §4 (AMD) .]

D. Bonds may be issued by the authority only to finance projects that are substantially located within Aroostook County. [2003, c. 598, §4 (NEW) .]

[2003, c. 598, §4 (AMD) .]

3. General characteristics. Bonds authorized under this section may be issued in one or more series. The resolution, trust indenture or mortgage under which the bonds are issued may include the following:

A. The date or dates borne by the bonds; [1993, c. 474, §1 (NEW) .]

B. Whether the bonds are payable upon demand or mature at a certain time or times; [1993, c. 474, §1 (NEW) .]

C. The interest rate or rates of the bonds; [1993, c. 474, §1 (NEW) .]

D. The denomination or denominations of the bonds; [1993, c. 474, §1 (NEW) .]

- E. The form of the bonds, whether coupon or registered; [1993, c. 474, §1 (NEW) .]
- F. The conversion or registration privileges carried by the bonds; [1993, c. 474, §1 (NEW) .]
- G. The rank or priority of the bonds; [1993, c. 474, §1 (NEW) .]
- H. The manner of execution of the bonds; [1993, c. 474, §1 (NEW) .]
- I. The medium and place or places of payment; [1993, c. 474, §1 (NEW) .]
- J. The terms of redemption of the bonds, with or without premium; [1993, c. 474, §1 (NEW) .]
- K. The manner secured; and [1993, c. 474, §1 (NEW) .]
- L. Any other characteristics of the bonds. [1993, c. 474, §1 (NEW) .]

[1993, c. 474, §1 (NEW) .]

4. Price sold. The bonds may be:

- A. Sold to any person on such terms as the authority may negotiate; [2003, c. 598, §5 (AMD) .]
- B. Exchanged for other bonds on the basis of par; or [1993, c. 474, §1 (NEW) .]
- C. Sold to the Federal Government at private sale at not less than par. If less than all of the authorized principal amount of the bonds is sold to the Federal Government, the balance may be sold at private sale at not less than par at an interest cost to the municipality that does not exceed the interest cost to the municipality of the portion of the bonds sold to the Federal Government. [1993, c. 474, §1 (NEW) .]

[2003, c. 598, §5 (AMD) .]

5. Signatures of outgoing officers; negotiability. If an official of the authority whose signature appears on a bond or coupon issued under this article ceases to be an official before the bond is delivered, the signature is nevertheless valid for all purposes, as if the official had remained in office until the delivery. Notwithstanding contrary provisions of law, bonds issued under this article are fully negotiable.

[1993, c. 474, §1 (NEW) .]

6. Bond recitation; conclusive presumptions. In actions or proceedings involving the validity or enforceability of a bond issued under this article or the security for that bond, a bond reciting in substance that it has been issued by the authority in connection with an activity is conclusively deemed to have been issued for that purpose and the activity is conclusively deemed to have been planned, located and carried out in accordance with this article.

[1993, c. 474, §1 (NEW) .]

7. No personal liability; not debt of State or municipality. Neither the trustees of the authority nor the person executing the bonds is liable personally on the bonds by reason of the issuance of the bonds. The bonds and other obligations of the authority must have stated on their face that they are not a debt of the State and that the State is not liable on the bonds. The bonds or obligations may not be payable out of funds or properties other than those of the authority acquired for the purposes of this article or otherwise pledged therefor.

[2003, c. 598, §6 (AMD) .]

8. Bonds as legal investments. Public officers, municipal corporations, political subdivisions and public bodies; banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business; insurance companies, insurance associations and other persons carrying on an insurance business; and executors, administrators, curators, trustees and other fiduciaries may legally invest sinking funds, money or other funds belonging to them or within their control in bonds or other obligations issued by the authority under this article. These bonds or other obligations are authorized security for all public deposits. It is the purpose of this section to authorize persons, political subdivisions and officers, public or private, to use funds owned or controlled by them for the purchase of these bonds or other obligations. This section does not relieve a person of any duty or of exercising reasonable care in selecting securities.

[1993, c. 474, §1 (NEW) .]

9. Investment of funds; redemption of bonds. The authority may:

A. Invest, in property or securities in which savings banks may legally invest funds subject to their control, funds held in reserves, sinking funds or funds not required for immediate disbursement; [2003, c. 598, §6 (AMD) .]

B. Cancel its bonds by redeeming them at the redemption price established in the bonds or by purchasing them at less than redemption price; and [2003, c. 598, §6 (AMD) .]

C. Invest funds in accordance with Title 30-A, chapter 223, subchapter 3-A. [2003, c. 598, §6 (NEW) .]

[2003, c. 598, §6 (AMD) .]

10. Issue of bonds. With respect to all or any portion of any issue of any bonds or any series of bonds that the authority may issue in accordance with this article, the authority may covenant and consent that the interest on the bonds is includable, under the United States Internal Revenue Code of 1986 or any subsequent corresponding internal revenue law of the United States, in the gross income of the holders of the bonds to the same extent and in the same manner that the interest on the bills, bonds, notes or other obligations of the United States is includable in the gross income of the holders under the United States Internal Revenue Code of 1986 or any subsequent law.

[2003, c. 598, §7 (NEW) .]

11. Pledge of security interests. Any pledge or assignment of revenue or collateral or other security interests under this article is valid and binding and perfected from the time when the pledge is made. All the revenues or collateral pledged by the authority is subject immediately to the lien of the pledge or assignment without any physical delivery or further action under the Uniform Commercial Code or otherwise. The lien of any pledge or assignment and perfection is valid and binding against all parties having claims of any kind in tort, contract or otherwise against the authority, whether the parties have notice of the pledge or assignment.

[2003, c. 598, §7 (NEW) .]

SECTION HISTORY

1993, c. 474, §1 (NEW) . 1993, c. 729, §§7,8 (AMD) . 1995, c. 495, §§5-7 (AMD) .
2003, c. 598, §§3-7 (AMD) .

§13080-H. INTEREST OF PUBLIC OFFICIALS, TRUSTEES OR EMPLOYEES

1. Acquisition of interest. An official, trustee or employee of the authority may not acquire or hold a direct or an indirect financial or personal interest in:

A. An authority activity; [1993, c. 474, §1 (NEW) .]

B. Property included or planned to be included in the base area; or [1993, c. 474, §1 (NEW) .]

C. A contract or proposed contract in connection with an authority activity. [1993, c. 474, §1 (NEW) .]

When an acquisition is involuntary, the interest acquired must be disclosed immediately in writing to the authority trustees and the disclosure must be entered in the board's minutes.

[1993, c. 474, §1 (NEW) .]

2. Present or past interest in property. If an official, trustee or employee presently owns or controls, or owned or controlled within the preceding 2 years, a direct or an indirect interest in property known to be included or planned to be included in an authority activity, that official, trustee or employee must disclose this fact immediately in writing to the authority and the disclosure must be entered in the authority's minutes.

[1993, c. 474, §1 (NEW) .]

3. Recusal. The official, trustee or employee with an interest may not participate in an action by the authority affecting that property.

[1993, c. 474, §1 (NEW) .]

4. Incompatible offices. A trustee or other officer of the authority may not hold elected office in a municipality in Aroostook County or in Aroostook County government.

[1993, c. 474, §1 (NEW) .]

5. Violation. A violation of this section is a Class E crime.

[1993, c. 474, §1 (NEW) .]

SECTION HISTORY

1993, c. 474, §1 (NEW) .

§13080-I. EXEMPTION FROM EXECUTION

1. Property exempt from execution. The property, including funds, of the authority is exempt from levy and sale by virtue of an execution. An execution or other judicial process may not be issued against the authority's property and a judgment against the authority may not be a charge or lien upon its property.

[1993, c. 474, §1 (NEW) .]

2. Construction; limitation of application. This section does not:

A. Prohibit the authority from making payments in lieu of taxes to the municipality; or [1993, c. 474, §1 (NEW) .]

B. Apply to or limit the right of an obligee to foreclose or otherwise enforce a mortgage of the authority or to pursue remedies for the enforcement of a pledge or lien given by the authority on its rents, fees, grants or revenues or any other sources pledged by the authority to the payment of its bonds. [2003, c. 598, §8 (AMD) .]

[2003, c. 598, §8 (AMD) .]

SECTION HISTORY

1993, c. 474, §1 (NEW) . 2003, c. 598, §8 (AMD) .

§13080-J. DESIGNATION AS PORT OF ENTRY, INTERNATIONAL AIRPORT, FOREIGN TRADE ZONE AND FREE PORT AREA

1. Port of entry. The authority may apply to the Secretary of the Treasury of the United States for the purpose of having Loring Air Force Base or a portion of the base designated, established or constituted as a port of entry or an international airport pursuant to the Customs Reorganization Act, 19 United States Code, Section 1, as amended, and Section 58b, as amended, and regulations of the United States Customs Service, including 19 Code of Federal Regulations, Sections 101.0 and 122.1, as amended.

[1993, c. 474, §1 (NEW) .]

2. Foreign trade zone. The authority may apply to the Secretary of Commerce of the United States for the purpose of establishing, operating and maintaining foreign trade zones at Loring Air Force Base pursuant to the federal Free Trade Zone Act, 19 United States Code, Section 81, as amended, providing for the establishment, operation and maintenance of foreign trade zones in or adjacent to ports of entry of the United States for expediting and encouraging foreign commerce and for other purposes.

A. The authority may select and describe the location of the zone, make regulations and take other actions concerning the operation, maintenance and policing of the zone as necessary to comply with the Free Trade Zone Act and the regulations promulgated under that Act. [1993, c. 474, §1 (NEW) .]

B. The authority may lease or may erect, maintain and operate structures, buildings or enclosures necessary for the establishment and operation of foreign trade zones. [1993, c. 474, §1 (NEW) .]

[1993, c. 474, §1 (NEW) .]

3. Other tax-free provisions. The authority may establish an area at Loring Air Force Base in which personal property in transit is exempt from the provisions of the stock-in-trade tax and other taxes and customs normally levied in a port of entry. For the purposes of this section, personal property in transit through the area established by the port authority includes goods, wares and merchandise that:

A. Are moving in interstate or international commerce through or over the areas established; [1993, c. 474, §1 (NEW) .]

B. Are consigned from outside the State to a public or private warehouse within the State, whether that consignment is specified before or after transportation; or [1993, c. 474, §1 (NEW) .]

C. Do not lose their exempt status because, while in a warehouse, they are assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged. The warehouse in which the goods, wares and merchandise are stored may not be owned in whole or in part by either the consignee or the consignor. The exemption granted may be liberally construed to effect the purposes of this article. [1993, c. 474, §1 (NEW) .]

[1993, c. 474, §1 (NEW) .]

SECTION HISTORY

1993, c. 474, §1 (NEW) .

§13080-K. TERMINATION OF THE AUTHORITY

The authority is not dissolved until: [1993, c. 474, §1 (NEW) .]

1. Legislature provides for termination. It is terminated by the Legislature; and

[1993, c. 474, §1 (NEW) .]

2. Payment of bonds, premiums and interest. The bonds, premium, if any, and interest have been paid or a sufficient amount for the payment of the bonds and interest to maturity or a prior redemption date have been irrevocably set aside in trust for the benefit of the bondholders in accordance with agreements with the bondholders.

[2003, c. 598, §9 (AMD) .]

SECTION HISTORY

1993, c. 474, §1 (NEW) . 2003, c. 598, §9 (AMD) .

§13080-L. ANNUAL REPORT

1. Annual financial report. The authority shall submit to the Governor, the Executive Director of the Legislative Council and the joint standing committee of the Legislature having jurisdiction over housing and economic development matters, not later than 120 days after the close of the authority's fiscal year, a complete report on the activities of the authority. The report may also be provided to any other member of the Legislature and to any other person. The report must include all of the following for the previous year:

A. A description of the authority's operations; [1993, c. 474, §1 (NEW) .]

B. An accounting of the authority's receipts and expenditures, assets and liabilities at the end of its fiscal year; [1993, c. 474, §1 (NEW) .]

C. A listing of all property transactions pursuant to section 13080-D; [1993, c. 474, §1 (NEW) .]

D. An accounting of all activities of any special utility district formed under section 13080-E; [1993, c. 474, §1 (NEW) .]

E. A listing of any property acquired by eminent domain under section 13080-G; [1993, c. 474, §1 (NEW) .]

F. A listing of any bonds issued during the fiscal year; [1993, c. 474, §1 (NEW) .]

G. A statement of the authority's proposed and projected activities for the ensuing year; and [1993, c. 474, §1 (NEW) .]

H. Recommendations regarding further actions that may be suitable for achieving the purposes of this article. [1993, c. 474, §1 (NEW).]

[1993, c. 474, §1 (NEW) .]

SECTION HISTORY

1993, c. 474, §1 (NEW) .

§13080-M. RELATIONSHIP TO OTHER LAWS

The activities of the authority must be conducted in accordance with the terms and conditions of the Federal Surplus Property Act, 50 Appendix United States Code, Section 1622 et seq.; the federal Airport and Airway Improvement Act of 1982, 49 United States Code App. Section 2201 et seq.; and Federal Aviation Administration Order 5190.6A. If a conflict exists between this article and those federal laws and rules, the federal requirements control. [1995, c. 462, Pt. A, §12 (AMD) .]

SECTION HISTORY

1993, c. 729, §9 (NEW). 1995, c. 462, §A12 (AMD) .

§13080-N. CAPITAL RESERVE FUNDS; OBLIGATION OF STATE

1. Capital reserve fund. The authority may create and establish one or more capital reserve funds and may pay into any such capital reserve fund money appropriated and made available by the State for the purposes of any such fund, any proceeds of sale by the authority of bonds to the extent determined by the authority and any other money available to the authority. For purposes of this section, the amount of any letter of credit, insurance contract, surety bond or similar financial undertaking available to be drawn on and applied to obligations to which money in any such fund may be applied is considered and counted as money in the capital reserve fund.

[1993, c. 729, §10 (NEW) .]

2. Application. Money held in any capital reserve fund, except as provided in this section, must be used solely with respect to bonds, repayment of which is secured by any such fund and solely for the payment of principal of the securities, the purchase or redemption of the securities, including any fees or premiums, or the payment of interest on the securities. In addition, if the authority obtains a letter of credit, insurance contract, surety bond or similar financial undertaking to establish and fund a capital reserve fund under subsection 1, money in the fund may be used to pay, when due, whether by acceleration or otherwise, all reimbursement obligations of the authority established in connection with that letter of credit, insurance contract, surety bond or similar financial undertaking, including, but not limited to, all fees, expenses, indemnities and commissions. Money in excess of the reserve requirement established as provided in subsection 3 may be transferred to other funds and accounts of the authority.

[1993, c. 729, §10 (NEW) .]

3. Reserve requirement. The authority may provide that money in a capital reserve fund under subsection 2 may not be withdrawn at any time in an amount that would reduce the amount of that fund below an amount, referred to in this section as the "capital reserve requirement," established by the authority, except for the purpose of paying the amount due and payable with respect to bonds, repayment of which is secured by that fund, or reimbursement obligations of the authority with respect to any letter of credit, insurance contract, surety bond or similar financial undertaking pertaining to that fund.

[1993, c. 729, §10 (NEW) .]

4. Issuance limit. The authority may provide that it will not issue bonds if the capital reserve requirement established by the authority with respect to securities outstanding and then to be issued and secured by a capital reserve fund will exceed the amount of that fund, including the amount available under any letter of credit, insurance contract, surety bond or other similar financial undertaking given to secure the capital reserve requirement, at the time of issuance, unless the authority, at the time of issuance of the securities, deposits in that fund from proceeds of the securities to be issued, or from other sources, an amount that, together with the amounts then in that fund and amounts available under any letter of credit, insurance contract, surety bond or other similar financial undertaking will not be less than the capital reserve requirement.

[1993, c. 729, §10 (NEW) .]

5. Appropriation. On or before December 1st, annually, the authority shall certify to the Governor the amount, if any, necessary to restore the amount in any capital reserve fund. In trust agreements or other pertinent documents, it must be clearly stated that this subsection applies to the capital reserve requirement. The Governor shall pay from the Contingent Account to that fund as much of the amount as is available in the Contingent Account and shall transmit to the Legislature a certification and a statement of the amount, if any, remaining to be paid and the amount certified must be appropriated and paid to the authority during the then current state fiscal year.

[2003, c. 598, §10 (AMD) .]

6. Securities outstanding. The authority may not have at any one time outstanding bonds, which, in the trust agreement or other document, subsection 5 is stated to apply to, in principal amount exceeding an amount equal to \$100,000,000. The amount of bonds issued to refund securities previously issued may not be taken into account in determining the principal amount of securities outstanding, provided that proceeds of the refunding securities are applied as promptly as possible to the refunding of the previously issued securities. In computing the total amount of bonds of the authority that may at any time be outstanding for any purpose, the amounts of outstanding bonds that have been issued as capital appreciation bonds or as similar instruments are valued as of any date of calculation at their then current accreted value rather than their face value.

[1995, c. 495, §8 (AMD) .]

7. Other capital reserve funds. This section, including subsection 5, may not be construed to require that each capital reserve fund established under this section have the benefit described in subsection 5.

[2003, c. 598, §11 (NEW) .]

SECTION HISTORY

1993, c. 729, §10 (NEW). 1995, c. 495, §8 (AMD). 2003, c. 598, §§10,11 (AMD).

Article 1-C: LORING JOB INCREMENT FINANCING FUND

§13080-O. LORING JOB INCREMENT FINANCING FUND

1. Short title. This article may be known and cited as the Loring Job Increment Financing Program Act.

[1995, c. 644, §2 (NEW) .]

2. Establishment of fund. The Loring Job Increment Financing Fund is established in accordance with this article.

§13080-O. Tourism

(As enacted by PL 1995, c. 560, Pt. B, §11 is REALLOCATED TO TITLE 5, SECTION 13090-C)

[1995, c. 644, §2 (NEW) .]

SECTION HISTORY

RR 1995, c. 2, §11 (RAL). 1995, c. 560, §B11 (NEW). 1995, c. 644, §2 (NEW).

§13080-P. DEFINITIONS

As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

[1995, c. 644, §2 (NEW) .]

1. Affiliated business. "Affiliated business" means 2 businesses exhibiting either of the following relationships:

A. One business owns 50% or more of the stock of the other business or owns a controlling interest in the other; or

[1995, c. 644, §2 (NEW) .]

B. Fifty percent of the stock of each business or a controlling interest in each business is directly or indirectly owned by a common owner or owners. [1995, c. 644, §2 (NEW) .]

[1995, c. 644, §2 (NEW) .]

2. Affiliated group. "Affiliated group" means a qualified business and its corresponding affiliated businesses.

[1995, c. 644, §2 (NEW) .]

3. Assessor. "Assessor" means the State Tax Assessor.

[1995, c. 644, §2 (NEW) .]

4. Authority. "Authority" means the Loring Development Authority of Maine.

[1995, c. 644, §2 (NEW) .]

5. Base area. "Base area" means the area within the geographic boundaries of Loring Air Force Base, as defined in section 13080-A.

[1995, c. 644, §2 (NEW) .]

6. Base level of employment. "Base level of employment" means the total employment in the base area as of July 1, 1996.

[1995, c. 644, §2 (NEW) .]

7. Employment tax increment. "Employment tax increment" means that level of state income withholding taxes attributed to employees employed within the base area, adjusted pursuant to section 13080-R.

[1995, c. 644, §2 (NEW) .]

8. Fund. "Fund" means the Loring Job Increment Financing Fund.

[1995, c. 644, §2 (NEW) .]

9. Gross employment tax increment. "Gross employment tax increment" means that level of state income withholding taxes attributed to employees employed within the base area that is greater than the base level of employment.

[1995, c. 644, §2 (NEW) .]

10. Successor business. "Successor business" means a business that has acquired the organization, trade or business, or 50% or more of the assets of the organization, trade or business, of another taxpayer.

§13080-P. Historical marker program

(As enacted by PL 1995, c. 560, Pt. B, §11 is REALLOCATED TO TITLE 5, SECTION 13090-D)

[1995, c. 644, §2 (NEW) .]

SECTION HISTORY

RR 1995, c. 2, §11 (RAL). 1995, c. 560, §B11 (NEW). 1995, c. 644, §2 (NEW).

§13080-Q. PAYMENTS ALLOWED

1. Fund to receive income tax revenues from job creation. Subject to the provisions of subsection 2 and section 13080-S, the fund must receive annually from the State 50% of the employment tax increment.

[1995, c. 644, §2 (NEW) .]

2. Limitations. Payments to the fund pursuant to this section are subject to the following limitations.

A. Revenues received under this section must be used solely to fund the costs of municipal services, including, but not limited to, water, sewer, fire protection, police protection, sanitation services and the maintenance of grounds and roads. [1995, c. 644, §2 (NEW).]

B. To the extent that revenues received by the fund are not expended for current costs of municipal services, the fund must retain the revenues to defray future costs of providing the municipal services. [1995, c. 644, §2 (NEW).]

C. State income withholding taxes derived from employment at a business within the base area are not eligible for use in the calculation of a payment to the fund if the business is eligible during the current year to receive a payment under any other program authorized by Title 36, Part 9 that is based on the amount of employer withholding taxes and the business has made or makes an election to receive that payment. [1997, c. 504, §1 (AMD).]

D. Payments made to the fund may not be made for tax years beginning on or after July 1, 2026. [2013, c. 413, §1 (AMD).]

[2013, c. 413, §1 (AMD) .]

SECTION HISTORY

RR 1995, c. 2, §11 (RAL). 1995, c. 560, §B11 (NEW). 1995, c. 644, §2 (NEW).
1997, c. 504, §1 (AMD). 2013, c. 413, §1 (AMD).

§13080-R. CALCULATION OF EMPLOYMENT TAX INCREMENT

The assessor shall calculate the employment tax increment as follows. [1995, c. 644, §2 (NEW).]

1. Adjustment for shifted revenues. The assessor shall subtract from the gross employment tax increment any revenues attributed to employment shifted from affiliated businesses to a business located within the base area. This adjustment is calculated by comparing the current year's income withholding tax revenues for businesses that are members of an affiliated group with revenues for the group as a whole. If the growth in income withholding tax revenue for any group exceeds the growth of income withholding tax revenue generated by the group's member business within the base area, the portion of the gross employment tax increment attributable to that business does not have to be adjusted to remove employment shifted from affiliated businesses. If the growth in income withholding tax revenue for any group is less than the growth in income withholding tax revenue for that group's member business within the base area, the difference is presumed to have been shifted from affiliated businesses to the base area and the portion of the gross employment tax increment attributable to that business is reduced by the difference.

[1995, c. 644, §2 (NEW) .]

2. Adjustment based on percentage change in withholding taxes for all business in State. The assessor shall adjust the calculation of the employment tax increment by subtracting from the gross employment tax increment a figure obtained by multiplying the previous year's total amount of income taxes withheld within the base area by the percentage change in withholding taxes for all business within the State as a whole.

[1995, c. 644, §2 (NEW) .]

3. Adjustment for successor business. The assessor shall further adjust the calculation of the employment tax increment, for any business that is a successor business, by subtracting from the gross employment tax increment any income tax withholding revenues attributable to a business acquired by the successor business after July 1, 1994.

§13080-R. Maine Tourism Commission

(As enacted by PL 1995, c. 560, Pt. B, §11 is REALLOCATED TO TITLE 5, SECTION 13090-F)

[1995, c. 644, §2 (NEW) .]

SECTION HISTORY

RR 1995, c. 2, §§12,13 (COR). RR 1995, c. 2, §11 (RAL). 1995, c. 560, §B11 (NEW).
1995, c. 644, §2 (NEW).

§13080-S. INFORMATION TO BE PROVIDED TO THE ASSESSOR; APPROVAL OF PAYMENT

1. Certification by authority. The authority shall certify annually to the assessor by September 30th of each year, beginning in 1997, the following information:

- A. Employment, payroll and state withholding data necessary to calculate the base level of employment; [1995, c. 644, §2 (NEW).]
- B. The total number of employees added during the previous year within the base area above the base level of employment, including additional associated payroll and withholding data necessary to calculate the gross employment tax increment and establish the appropriate payment to the fund; [1995, c. 644, §2 (NEW).]
- C. A listing of all employers within the base area that pay withholding taxes, the locations of those employers and the number of employees at each location; and [1995, c. 644, §2 (NEW).]
- D. A listing of all affiliated businesses and affiliated groups, data regarding current employment, payroll and state income withholding taxes for each affiliated business within the base area. [1995, c. 644, §2 (NEW).]

[1995, c. 644, §2 (NEW) .]

2. Approval of payment. Upon receipt of the information required by this section, the assessor shall review the information in a timely fashion. If the assessor determines that the requirements of this article are satisfied, the assessor shall approve payment to the fund.

[1995, c. 644, §2 (NEW) .]

3. Deposit and payment of revenue. On or before July 15th of each year, if the approval of the assessor has been issued pursuant to subsection 2, the Commissioner of Administrative and Financial Services shall deposit an amount equal to 50% of the employment tax increment for the preceding year into a contingent account established, maintained and administered by the Commissioner of Administrative and Financial Services. On or before July 31st of each year, the Commissioner of Administrative and Financial Services shall pay that amount to the fund.

§13080-S. Travel Promotion Matching Fund Program

(As enacted by PL 1995, c. 560, Pt. B, §11 is REALLOCATED TO TITLE 5, SECTION 13090-G)

[2009, c. 571, Pt. LL, §1 (AMD) .]

SECTION HISTORY

RR 1995, c. 2, §11 (RAL). 1995, c. 560, §B11 (NEW). 1995, c. 644, §2 (NEW).
2009, c. 571, Pt. LL, §1 (AMD).

§13080-T. PROGRAM ADMINISTRATION

The assessor shall administer the Loring Job Increment Financing Program. The assessor may adopt rules pursuant to the Maine Administrative Procedure Act for implementation of the program. The assessor may also by rule establish reasonable fees, including fees payable to the assessor for obligations under this article. Any fees collected pursuant to this article must be deposited into a special revenue account administered by the assessor and these fees may be used only to defray the actual costs of administering the Loring Job Increment Financing Program. [1995, c. 644, §2 (NEW).]

§13080-T. Maine State Film Commission

(As enacted by PL 1995, c. 560, Pt. B, §11 is REALLOCATED TO TITLE 5, SECTION 13090-H)

SECTION HISTORY

RR 1995, c. 2, §14 (COR). RR 1995, c. 2, §11 (RAL). 1995, c. 560, §B11 (NEW).
1995, c. 644, §2 (NEW).

§13080-U. MAINE STATE FILM OFFICE

(REALLOCATED TO TITLE 5, SECTION 13090-I)

SECTION HISTORY

RR 1995, c. 2, §11 (RAL). 1995, c. 560, §B11 (NEW).

Article 2: COMMUNITY INDUSTRIAL BUILDING AUTHORITY

§13081. DEFINITIONS

(REPEALED)

SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW). 1989, c. 914, §3 (AMD). 1999, c. 612, §1 (AMD).
2001, c. 703, §5 (RP).

§13082. COMMUNITY INDUSTRIAL BUILDINGS FUND

(REPEALED)

SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW). 1999, c. 127, §A11 (AMD). 1999, c. 612, §2 (AMD).
2001, c. 703, §5 (RP).

§13083. ASSISTANCE TO DEVELOPMENT CORPORATIONS

(REPEALED)

SECTION HISTORY

1987, c. 534, §§A17,A19 (NEW). 1989, c. 182, §§1,2 (AMD). 1999, c. 612, §§3,4
(AMD). 2001, c. 703, §5 (RP).